

## § 75.405

made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded. In determining reasonableness of a given cost, consideration must be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.

(b) The restraints or requirements imposed by such factors as: Sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award.

(c) Market prices for comparable goods or services for the geographic area.

(d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government.

(e) Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

### § 75.405 Allocable costs.

(a) A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. This standard is met if the cost:

(1) Is incurred specifically for the Federal award;

(2) Benefits both the Federal award and other work of the non-Federal entity and can be distributed in proportions that may be approximated using reasonable methods; and

(3) Is necessary to the overall operation of the non-Federal entity and is assignable in part to the Federal award in accordance with the principles in this subpart.

(b) All activities which benefit from the non-Federal entity's indirect (F&A) cost, including unallowable activities

## 45 CFR Subtitle A (10–1–15 Edition)

and donated services by the non-Federal entity or third parties, will receive an appropriate allocation of indirect costs.

(c) Any cost allocable to a particular Federal award under the principles provided for in this part may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards.

(d) Direct cost allocation principles. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, notwithstanding paragraph (c) of this section, the costs may be allocated or transferred to benefited projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required. See also §§ 75.317 through 75.323 and 75.439.

(e) If the contract is subject to CAS, costs must be allocated to the contract pursuant to the Cost Accounting Standards. To the extent that CAS is applicable, the allocation of costs in accordance with CAS takes precedence over the allocation provisions in this part.

### § 75.406 Applicable credits.

(a) Applicable credits refer to those receipts or reduction-of-expenditure-type transactions that offset or reduce expense items allocable to the Federal award as direct or indirect (F&A) costs. Examples of such transactions are:

Purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the non-Federal entity relate to allowable costs, they must be credited to the Federal award either as a cost reduction or cash refund, as appropriate.

(b) In some instances, the amounts received from the Federal Government to finance activities or service operations of the non-Federal entity should be treated as applicable credits. Specifically, the concept of netting such credit items (including any amounts used to meet cost sharing or matching requirements) must be recognized in determining the rates or amounts to be charged to the Federal award. (See §§ 75.436 and 75.468, for areas of potential application in the matter of Federal financing of activities.)

**§ 75.407 Prior written approval (prior approval).**

(a) Under any given Federal award, the reasonableness and allocability of certain items of costs may be difficult to determine. In order to avoid subsequent disallowance or dispute based on unreasonableness or non-allocability, the non-Federal entity may seek the prior written approval of the cognizant agency for indirect costs or the HHS awarding agency in advance of the incurrence of special or unusual costs. Prior written approval should include the timeframe or scope of the agreement. The absence of prior written approval on any element of cost will not, in itself, affect the reasonableness or allocability of that element, unless prior approval is specifically required for allowability as described under certain circumstances in the following sections of this part:

- (1) § 75.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts, paragraph (b)(5);
- (2) § 75.306 Cost sharing or matching;
- (3) § 75.307 Program income;
- (4) § 75.308 Revision of budget and program plans;
- (5) § 75.309 Period of performance and availability of funds;
- (6) § 75.318 Real property;

- (7) § 75.320 Equipment;
- (8) § 75.353 Fixed amount subawards;
- (9) § 75.413 Direct costs, paragraph (c);
- (10) § 75.430 Compensation—personal services, paragraph (h);
- (11) § 75.431 Compensation—fringe benefits;
- (12) § 75.438 Entertainment costs;
- (13) § 75.439 Equipment and other capital expenditures;
- (14) § 75.440 Exchange rates;
- (15) § 75.441 Fines, penalties, damages and other settlements;
- (16) § 75.442 Fund raising and investment management costs;
- (17) § 75.445 Goods or services for personal use;
- (18) § 75.447 Insurance and indemnification;
- (19) § 75.454 Memberships, subscriptions, and professional activity costs, paragraph (c);
- (20) § 75.455 Organization costs;
- (21) § 75.456 Participant support costs;
- (22) § 75.458 Pre-award costs;
- (23) § 75.462 Rearrangement and reconversion costs;
- (24) § 75.467 Selling and marketing costs;
- (25) § 75.470 Taxes (including Value Added Tax) paragraph (c); and
- (26) § 75.474 Travel costs.

(b) A request by a subrecipient for prior approval will be addressed in writing to the recipient. The recipient will promptly review such request and shall approve or disapprove the request in writing. A recipient will not approve any budget or project revision which is inconsistent with the purpose or terms and conditions of the Federal-award to the recipient. If the revision, requested by the subrecipient would result in a change to the recipient's approved project which requires Federal prior approval, the recipient will obtain the HHS awarding agency's approval before approving the subrecipient's request.

(c) For cost-reimbursement contracts under the FAR, the recipient shall obtain prior written approval in accordance with FAR 52.244-2.

**§ 75.408 Limitation on allowance of costs.**

The Federal award may be subject to statutory requirements that limit the